

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

JESSICA HODGES, et al.

Plaintiffs,

VS.

CHATHAM COUNTY, GEORGIA, et al.

Defendants.

Case Number: 4:22-cv-00067-WTM-CLR

EXHIBIT 6

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October 18, 2022

Via Electronic Mail Only

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R. Jonathan Hart

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Chatham County Attorney's Office

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Savannah, GA 31412

Re: **Jessica Hodges, et al. v. Chatham County, Georgia, et al.**

Case Number: 4:22-cv-00067-WTM-CLR

United States District Court, Southern District

Dear Jon and Andre:

Plaintiffs request that the parties confer regarding your offer to produce “any non-privileged documents” related to detainee deaths at the Chatham County Detention Center. This request is made pursuant to local rule 26.5, reminding counsel that “Fed. R. Civ. P. 26(c) and 37(a)(1) require a party seeking a protective order or moving to compel discovery to certify that a good faith effort has been made to resolve the dispute before coming to court.” Plaintiffs agree to narrow their request for documents sought in our First Set of Requests for Production of Documents, No. 12, to the following:

Any administrative review, mortality or morbidity investigation or review, psychological autopsy, or similar, relating to any detainee death from January 1, 2017 through December 31, 2020.

The law is clear that you have no privilege claims protecting the documents requested. *See, e.g., Colardo-Keen v. Rockdale County, Georgia*, 2017 WL 4418669, Civil Action No. 1:14-CV-489 (N.D. Ga. Mar. 3, 2017) (mortality review discoverable in wrongful death lawsuit). As noted by the court in *Jenkins v. DeKalb Cty. Ga.*, 242 F.R.D. 652, 659 (N.D. Ga. 2007) “[i]t appears that every United States Court of Appeals that has addressed the issue of whether there is a federal medical peer review privilege has rejected the claim.” In addition, the mere fact that the county’s lawyers were consulted as part of its retention of Kenneth Ray and Ronald Shansky does not make any documents they created protected by the attorney-client privilege. *Colardo-Keen v. Rockdale County, Georgia*, 2017 WL 4418669, *2. Finally, given that the documents requested were not

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created with “the primary purpose of providing advice related to litigation” the documents are not protected by the work-product privilege. *Id.* at *3.

Please let us know when you can confer.

Sincerely,

THE CLAIBORNE FIRM, P.C.



DAVID J. UTTER

Attorney for the Firm

DJU/kag